

FILED  
U.S. DISTRICT COURT  
BRUNSWICK DIV.

2020 MAR 30 PM 1:29

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JUD. DIST. OF GA.

Hobson

In the United States District Court  
For the Southern District of Georgia  
Waycross Division

MARDONIA PERGUERO,

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Petitioner,

\*

CIVIL ACTION NO.: 5:19-cv-121

v.

\*

TRACY JOHNS,

\*

Respondent.

\*

ORDER

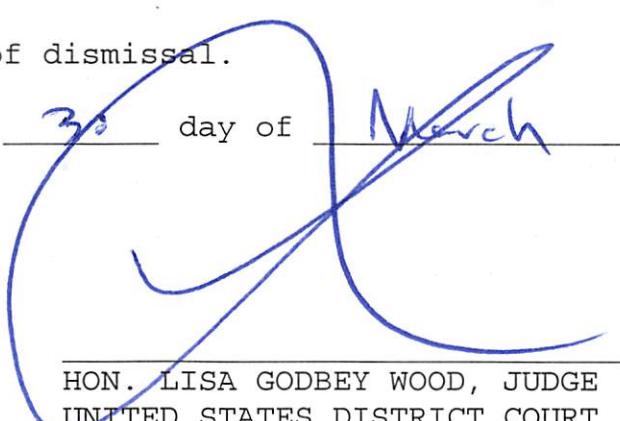
This matter comes before the Court on Petitioner Mardonio Perguero's ("Perguero") "Response to the Motion to Dismiss," which the Court construes as his Motion to Voluntarily Dismiss his 28 U.S.C. § 2241 Petition.<sup>1</sup> Dkt. No. 9. Perguero states his requested relief—to be credited with certain time against his federal sentence—was provided during the pendency of this action, and he agrees with Respondent's motion for dismissal.

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<sup>1</sup> "Courts generally 'must look beyond the labels of [filings] by pro se [parties] to interpret them under whatever statute would provide relief.'" *Edwards v. Hastings*, No. 2:14-CV-41, 2016 WL 686386, at \*1 (S.D. Ga. Feb. 18, 2016) (quoting *Lofton v. Williams*, No. CV415-146, 2016 WL 126408, at \*2 (S.D. Ga. Jan. 11, 2016) (first alteration in original), and citing *Means v. Alabama*, 209 F.3d 1241, 1242 (11th Cir. 2000) (concerning pro se inmates)); Fed. R. Civ. P. 8(e) ("Pleadings must be construed so as to do justice."); *Wilkerson v. Georgia*, 618 F. App'x 610, 611-12 (11th Cir. 2015).

Id. Based on Federal Rule of Civil Procedure 41(a), the Court  
**GRANTS** Perguero's Motion and **DISMISSES** without prejudice  
Perguero's § 2241 Petition. Scott v. Speights, No. CA 14-0189,  
2014 WL 2993726 (S.D. Ala. July 4, 2014) (recognizing  
applicability of Rule 41(a) to § 2241 petitions). The Court  
**REJECTS** the Magistrate Judge's Report and Recommendation and  
**DENIES as moot** Respondent's Motion to Dismiss. The Court also  
**DIRECTS** the Clerk of Court to **CLOSE** this case and enter an  
appropriate judgment of dismissal.

SO ORDERED, this 30 day of March, 2020.

  
HON. LISA GODBEY WOOD, JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA